

## MINUTES

Niles City Council held its regular meeting Wednesday, February 1, 2006 at 6:00 p. m. in Council Chambers, Safety-Service Complex, and Niles, Ohio. There was a moment of silence before the roll was called in memory of Mr. Charles William Burgess who passed away on January 21, 2006. The meeting was called to Order by the President, Robert Marino, and the Clerk, Linda A. Yuhasz called the roll:

Lastic-P; Papalas-P; Scarnecchia-P; Cox-P; Stredney-P; Papas-P; Fuda-P; Marino-P.

It was moved by Scarnecchia, seconded by Fuda to accept the Minutes of the regular meeting of January 18, 2006 as presented. Motion carried 7-0.

## REPORTS AND COMMUNICATIONS

FROM: Mr. Ray Novotny

A 2005 Status Report on the Senior Center's activities, attendance and community service events.

It was moved by Papalas, seconded by Fuda to accept the report and place it on file. Motion carried 7-0.

FROM: The Auditor's Office

The 2005 End of the Year Status Report

It was moved by Fuda, seconded by Papalas to accept the report and place it on file. Motion carried 7-0.

FROM: The City Income Tax Office

January 2006 Total Receipts

It was moved by Papalas, seconded by Papas to accept the report and place it on file. Motion carried 7-0.

FROM: The Office of the Building Inspector  
RE: Edison Building property, Zone change

Gentlemen:

The Niles Planning Commission, in its regularly scheduled meeting, January 2006, unanimously agreed to recommend to Niles City Council that the zoning at 36 W. Church Street, Niles, be changed from R-B Residential to R-C Residential District.

Anthony J. Vigorito

It was moved by Scarnecchia, seconded by Papas to accept the recommendation and place it on file. Motion carried 7-0.

Councilman Scarnecchia: Mr. President, at this time are we or do we do it after our ordinances, Draft 103-05?

President Marino: During the legislative agenda at that time of the conclusion you will make a motion.

Councilman Scarnecchia: Can we do it first?

President Marino: You will do it at the conclusion.

### **MEMBERS OF AUDIENCE TO ADDRESS COUNCIL**

Mr. Robert Allen Lumley, 106 Neil Street, Niles, Ohio: My question is, I just retired. I went in and filed my taxes at the city. I might have misunderstood what the girl said that I am all done paying taxes. Then when I read this, I still have to file, the way I understand it, according to this article in the paper.

President Marino: We will let our Treasurer, Mr. Swauger address that briefly.

Treasurer Swauger: You only have to pay taxes on earned income. So your pension, social security is not taxable. It's only if you should pick up a job in your retirement, then you have to pay taxes on your earned income and have to file.

Mr. Lumley: I'll tell you what with this proposal, when you are behind in your taxes going up to \$15.00 to a \$100.00 ! I think that is pretty steep.

Treasurer Swauger: We have an amended ordinance.

Mr. Lumley: If it's \$50.00 I can understand it.

President Marino: Mr. Swauger what does the amendment read?

Treasurer Swauger: The amended ordinance tonight reads \$50.00 for non filing and \$50.00 for non payment. The difference would be if you filed taxes and owed the money and don't pay it. Alright say you owe the City of Niles money for taxes, you file your

taxes and you owe us \$300.00 for taxes. But you know what, you didn't bring your checkbook and you don't pay us for six months.

After April 15<sup>th</sup> there is a \$50.00 fee for not paying the taxes due. Then it will be reduced to a \$50.00 non filing fee.

Mr. Lumley: Well I can see that. I can even see a \$100.00 if you didn't pay for two years. My other question is, I have no money coming in do I still file? That was confusing, what was written in there. I don't have to file, I don't have to go in?

Treasurer Swauger: Here is how I approach it, here is my thought. If you have no earned income as a retiree, ninety nine percent of the time I'll tell you to just come down and file for zero, just to put it on record. When in doubt, file. If you have to come down and say I have no earned income, just to keep it on the record that is the smart, safe way of doing it. The other thing would be if you retire and two years from now you start working, you get a part time job and you earn \$2000.00. Then you are going to owe on that \$2000.00. What if you get out of the habit of not coming down and filing your city income tax? That is why I suggest to come down and file for a zero. That is my suggestion.

Mr. Lumley: In other words, no matter what.

Treasurer Swauger: Yes, Come down and file as a retiree as a zero earned income and then if you get a job later on you are in that mode to come down and file your taxes.

Mr. Lumley: Thank You.

## **COMMITTEE REPORTS**

None

## **ORDINANCES AND RESOLUTIONS**

**RESOLUTION NO. \_\_\_\_\_ (Draft No.02-06)**

### **A RESOLUTION AUTHORIZING THE QUARTERLY CASH TRANSFERS; AND, DECLARING AN EMERGENCY.**

It was moved by Papalas, seconded by Fuda to suspend the rule requiring three readings.

**YEAS: 7            NAYS: 0**

Rules are suspended.

It was moved by Fuda, seconded by Papalas that this draft be adopted.

**YEAS: 7            NAYS: 0**

This Draft has been adopted this 1<sup>st</sup> day of February, 2006.

**ORDINANCE NO. \_\_\_\_\_ (Draft No. 03-06)**

**AN ORDINANCE AUTHORIZING THE MAYOR AND SERVICE DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS FOR INDIGENT LEGAL SERVICES; AND, DECLARING AN EMERGENCY.**

It was moved by Papalas, seconded by Papas to suspend the rule requiring three readings.

Councilman Scarnecchia: Yes, Terry I asked this every year. Do we use this money? Have we had to have any attorneys for indigents?

Mr. Dull: The Public Defenders office has someone who is here.

Councilman Scarnecchia: They are going to get this money regardless?

Mr. Dull: Correct. This is going to cover whatever the Public Defenders office does with us. So even if they have to work five days a week, they will be locked into this number. There are some occasions where they have a conflict that they can't represent and there will be another attorney appointed. Those cases don't happen very often but we will pay that attorney separately if that happened. They put through a lot of cases.

Councilman Scarnecchia: Do we ever go over this, Neil?

Auditor Buccino: No.

Councilman Scarnecchia: Okay, thanks Terry.

**YEAS: 7            NAYS: 0**

Rules are suspended.

It was moved by Papalas, seconded by Lastic that this Draft be adopted.

**YEAS: 7            NAYS: 0**

This Draft has been adopted this 1<sup>st</sup> day of February, 2006.

**RESOLUTION NO. \_\_\_\_\_ (Draft No. 04-06)**

**A RESOLUTION APPROVING THE PLAN OF THE TREASURER FOR LIMITED AMNESTY TO DELINQUENT CITY INCOME TAX PAYERS; AND DECLARING AN EMERGENCY.**

It was moved by Papalas, seconded by Scarnecchia to suspend the rule requiring three readings.

**YEAS: 7            NAYS: 0**

Rules are suspended.

It was moved by Papalas, seconded by Lastic that this Draft be adopted.

**YEAS: 7            NAYS: 0**

This Draft has been adopted this 1<sup>st</sup> day of February, 2006.

**ORDINANCE NO. \_\_\_\_\_ Amended (Draft No. 05-06)**

**AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. 191.10(D) TO INCREASE THE PENALTY ASSESSED AGAINST TAXPAYERS WHO FAIL TO TIMELY FILE A MUNICIPAL INCOME TAX RETURN AND PAY THE TAX DUE THEREON; REPEALING EXISTING SECTION CODIFIED ORDINANCE NO. 191.10 (D); AND, DECLARING AN EMERGENCY.**

It was moved by Papalas, seconded by Papas to give this Draft a First Reading.

Councilman Papalas: The Treasurer wanted to give it some time to let this settle with the community before we pass it under suspension.

President Marino: The Treasurer is to be commended for that.

**YEAS: 7            NAYS: 0**

This Draft has received its First Reading this 1<sup>st</sup> day of February, 2006 is on file in the Clerk of Council's office.

**RESOLUTION NO. \_\_\_\_\_ (Draft No. 06-06)**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A REVOLVING LOAN FUND ADMINISTRATION AGREEMENT WITH THE STATE OF OHIO, DEPARTMENT OF DEVELOPMENT; AND DECLARING AN EMERGENCY.**

It was moved by Papalas, seconded by Papas to suspend the rule requiring three readings.

**YEAS: 7        NAYS: 0**

Rules are suspended.

It was moved by Papalas, seconded by Stredney that this Draft be adopted.

**YEAS: 7        NAYS: 0**

This Draft has been adopted this 1<sup>st</sup> day of February, 2006.

**ORDINANCE NO. \_\_\_\_\_ (Draft No. 07-06)**

**AN ORDINANCE AMENDING NILES ORDINANCE NO. 9826-70; CHANGING THE ZONING FOR PROPERTY KNOWN FOR STREET NUMBERING PURPOSES AS 345 WARREN AVENUE, OWNED BY ROBERT GODFREY SR., FROM R-B RESIDENTIAL DISTRICT TO B-2, COMMERCIAL DISTRICT; AND AMENDING THE ZONING MAP AS REQUIRED THEREIN.**

It was moved by Scarnecchia, seconded by Papalas to refer this Draft to the Planning Commission. Motion carried 7-0.

President Marino: Mr. Scarnecchia, I believe you wanted to add a Draft to tonight's legislative agenda.

Council Scarnecchia: Yes, Draft 103-05.

It was moved by Scarnecchia, seconded by Papalas to add Draft 103-05 to the agenda. Motion carried 7-0.

**ORDINANCE NO. \_\_\_\_\_ (Draft No. 103-05)**

**AN ORDINANCE AMENDING NILES ORDINANCE NO. 9826-70; CHANGING THE ZONING FOR 1.88 ACRES OF TEN LOTS COLLECTIVELY IDENTIFIED AS PARCEL ID NUMBER 25-003503 FROM R-B RESIDENCE DISTRICT TO R-C RESIDENCE DISTRICT; AMENDING THE ZONING MAP AS REQUIRED THEREIN; AND, DECLARING AN EMERGENCY.**

It was moved by Scarnecchia, seconded by Papalas to suspend the rule requiring three readings.

**YEAS: 7        NAYS: 0**

Rules are suspended.

It was moved by Fuda, seconded by Papas that this Draft be adopted.

**YEAS: 7        NAYS: 0**

This Draft has been adopted this 1<sup>st</sup> day of February, 2006.

**MISCELLANEOUS REMARKS**

Mr. Ray Novotny read the 2005 Status Report on the Niles Senior Center. The report is on file in the Clerk of Council's Office. Mr. Novotny, on behalf of the seniors, thanked the mayor and council for all of their support.

Mayor Infante: Ray is doing a good job over there.

Councilman Scarnecchia: I would like to say at this time that we never give credit to Janet Schweitzer, the Director; she was from the Niles McKinley class of 1959. I graduated with her. We are very proud of her.

Mayor Infante: We have the opportunity to bring someone down from AMP Ohio to give a presentation as to why the rates increased last year. It was due to the barge accident, in Belleville, on the river where our hydroelectric plant is, because of the energy, the cost of gas was raised. They can come down and give us a presentation or I can give you copies of the presentation. Just let me know.

President Marino: It would probably be nice for them to come and visit with us in person and do a presentation maybe the first meeting in March, Mayor?

Mayor Infante: Okay.

Councilman Scarnecchia: Mayor, any word on the surcharge being reduced or eliminated?

Mayor Infante: We reduced it by one point two cents.

Councilman Scarnecchia: Will it keep going down?

Mayor Infante: We won't know until our rate study is done.

Councilman Scarnecchia: Okay, thank you.

President Marino: Mayor, how about March 1<sup>st</sup> at 5:30 p.m.? Is that okay with you gentlemen? Is a half hour enough time, Mayor?

Mayor Infante: Yes.

President Marino: If it is confirmed, gentlemen, the clerk can include it in your next packet.

Anthony Vigorito: On this ordinance for 345 Warren Avenue, I would like to set the public hearing date if we can; it has been before the Planning Commission already we are just waiting for a hearing to be set.

President Marino: Tony when do you want to set that, March 15<sup>th</sup>?

Anthony Vigorito: That is when I would be available for it.

President Marino: This would be a public hearing for the proposed zone change on Warren Avenue. It will be 5:45 p.m., March 15 in council chambers.

Anthony Vigorito: Also, the Housing Board met in November and we got permission from the Board of Control to tear down four houses and four garages. We can start this weekend. It probably will be complete in two weeks. The third ward rezoning issue and the language changes we should probably have ready for council in three weeks.

Treasurer Swauger: I just like to thank council for passing the ordinance tonight.

President Marino: You are to be commended for your diligence thus far, Bob.

Councilman Lastic: I would like to refer back to Mr. Lumley's remarks earlier. Mr. Cox and I are aware of the situation. Mr. Cox already worked on some of those problems. We will have a meeting with Mr. Guarino to make sure the rest of those areas are cleaned up. If you want you can stop and see me after the meeting.

Councilman Scarnecchia: Tony, on this Third Ward rezoning, with the language and so forth is that something we would have to meet with the Safety Committee?

Anthony Vigorito: Well we haven't in the past, but that is up to you.

Councilman Scarnecchia: Are there a lot of changes on that?

Anthony Vigorito: Not quite as many as the First and Second Wards. I'll have to get the map drawn by Trumbull County and I'll have a map to present with the zone changes. Actually the Planning Commission will still have to vote in favor of the entire package before I bring it in.

Councilman Scarnecchia: Okay, you'll get us a map prior to anything being passed, okay.

Anthony Vigorito: Okay.

President Marino: The opinion of the Chair is that it would be wise to hold a meeting.

Councilman Fuda: The Mosquito Creek Restoration Committee is having a meeting if anybody is interested, Saturday morning at 10:00 a.m. We are working on putting in the new fishing pier, bocce court and landscaping that area. Dave Wilkerson, who is in the back, is doing a super job organizing. I think that he has some grants set up for the near future in that area. Also I want to thank Tony, you tore that building down on Main Street, and it really looks good.

It was moved by Fuda, seconded by Lastic to adjourn this meeting. Motion carried 7-0.

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**Linda A. Yuhasz, Clerk of Council**

Approved as to Form

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**Robert Marino, President of Council**

